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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,078	11/26/2001	William Brown	P 282437 ABA-300/13004-4-	2807
7590 05/18/2004			EXAMINER	
Fitch, Even, Tabin & Flannery 1801 K Street, N.W.			BORIN, MICHAEL L	
Suite 401L		ART UNIT	PAPER NUMBER	
Washington, D	C 20006-1201		1631	
			DATE MAILED: 05/18/200	4

Please find below and/or attached an Office communication concerning this application or proceeding.

6	Application No.	Applicant(s)				
	09/994,078	BROWN ET AL.				
Office Action Summary	Examiner	Art Unit				
	Michael Borin	1631				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) days fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1)⊠ Responsive to communication(s) filed on <u>09 Ma</u>	Responsive to communication(s) filed on <u>09 March 2004</u> .					
2a)⊠ This action is FINAL . 2b)☐ This	☐ This action is FINAL . 2b)☐ This action is non-final.					
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>1-29,51 and 54</u> is/are pending in the application.						
4a) Of the above claim(s) 16,52 and 53 is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-15,17-29, 51,54</u> is/are rejected.						
7) Claim(s) is/are objected to.	7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/or	election requirement.					
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of:	priority under 35 U.S.C. § 119(a)	-(d) or (f).				
 Certified copies of the priority documents 	s have been received.					
Certified copies of the priority documents						
3. Copies of the certified copies of the prior	•	ed in this National Stage				
application from the International Bureau	• • • • • • • • • • • • • • • • • • • •					
* See the attached detailed Office action for a list of	of the certified copies not receive	d.				
A44-2-1						
Attachment(s)						

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date _

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

6) Other: ____

5) Notice of Informal Patent Application (PTO-152)

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DETAILED ACTION

Status of Claims

Response filed 03/09/2004 is acknowledged.

Claims 1-29,51,54 are pending. Claims reading on the elected species,

compound H-Tyr-D-Arg-D-Phe-Phe-NH2, are 1-15,17-29, 51,54. Claims 16, 52,53

are withdrawn from consideration as drawn to non-elected species (it seems that

applicant considers these claims as canceled).

Priority

Examiner maintains that priority of this application goes back to the immediate

parent, 09/159518, with the priority date of 09/24/1998. Applicant is not granted

with priority date of previous application 09/718585 as there are no common

applicants in the instant and referenced applications, and no applicant was deleted in

the course of prosecution of application 09/718585.

Applicant refers to the Example in MPEP 201.03. However, unlike the situation

described in the Example, no applicant was deleted in the course of prosecution of

application 09/718585. Consequently, as there are no common applicants in the

instant and referenced application, applicant is not granted priority date of previous

application 09/718585.

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Further, applicant submits that Dr. Wang, the sole inventor of 09/718585, has signed the declaration of the parent application 09/159518. Examiner agrees, and notes that the priority of this parent application was granted as explained in the previous Office action.

Claim Rejections - 35 USC § 102.

The rejections of record over Wang et al, and Saenger et al are maintained. The rejections are maintained because priority of 09/159518 remained denied for the reasons set forth above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

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of the advisory action. In no event, however, will the statutory period for reply expire

later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Borin whose telephone number is (571) 272-

0713. Dr. Borin can normally be reached between the hours of 8:30 A.M. to 5:00

P.M. EST Monday to Friday. If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Mr. Michael Woodward, can be reached on

(571) 272-0722.

Any inquiry of a general nature or relating the status of this application should

be directed to the Group receptionist whose telephone number is (571) 272-0549.

May 12, 2004

MICHAEL BORIN, PH.D PRIMARY EXAMINER

Upm

mlb